

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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In re: :
 : In Chapter 13
JOSEPH ZWICHAROWSKI :
 : Bankruptcy No. 17-11811 (JKF)
Debtor. :
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**THE CITY OF PHILADELPHIA'S
OBJECTION TO THE PROPOSED CHAPTER 13 PLAN**

TO THE HONORABLE JEAN K. FITZSIMON:

AND NOW, comes the City of Philadelphia, (the "City"), a secured creditor in the above-captioned case, by and through its Counsel, Pamela Elchert Thurmond, Deputy City Solicitor, pursuant to Bankruptcy Code §§ 506(b), 1325(a)(5), and L.B.R. 3015-1(c), to object to the proposed Chapter 13 plan (the "Plan"), of the above-captioned debtor, (the "Debtor"). The City avers the following in support thereof:

1. On or about March 15, 2017, the Debtor filed a voluntary petition (the "Petition") for Chapter 13 bankruptcy with this Court.

2. A list of all real property owned by the Debtor was filed on March 15, 2017, which included the properties located at 3982 Carteret Drive, 3281 Red Lion Road, 3314 S. Keswick Circle, and 4661 James Street, Philadelphia, Pennsylvania (the "Subject Properties"). A copy of the Debtor's Schedule A is attached hereto as **Exhibit A**.

3. The Subject Properties are alleged by the Debtor to have a current value of Five Hundred Thirty-Eight Thousand Four Hundred Forty-Eight Dollars (\$538,448.00).

See Exhibit A.

4. On September 11, 2017, the City filed a claim to the amount of Three Thousand Four Hundred Seventy-Three Dollars and Twelve Cents (\$3,473.12). The portion of the City's claim amounting to Three Thousand One Hundred Six Dollars and Nineteen Cents (\$3,106.19) represents the secured portion of the City's claim refuse collection fees on the Subject Properties (the "Secured Claim"). The portion of the City's claim amounting to One Hundred Twenty-Two Dollars and Seventy-Six Cents (\$122.76) represents a priority claim for business taxes pursuant to Section 507(a)(8) of the Bankruptcy Code (the "Priority Claim"). A copy of the proof of claim filed by the City is attached hereto as **Exhibit B**.

5. As neither the Debtor nor another party in interest has objected to the Secured Claim, it is deemed allowed. See 11 U.S.C. § 502(a).

6. On February 14, 2017, the Debtor filed the Plan, which provides a secured payment in the total incorrect amount of One Thousand Sixty-One Dollars and Twenty-Four Cents (\$1,061.24) to the City and fails to provide payment to the Priority Claim. A copy of the Plan is attached hereto as **Exhibit C**.

7. A proposed plan must "provide for the full payment...of all claims entitled to priority" unless the claim holder agrees otherwise. See 11 U.S.C. § 1322(a)(2).

8. The Plan should not be confirmed as the City, a secured creditor, has not accepted the plan. See 11 U.S.C. 1325(a)(5)(A).

9. The Plan should not be confirmed as the Priority Claim held by the City is not provided in full. See 11 U.S.C. 1322(a)(2).

10. The Plan should not be confirmed as it fails to provide accurate post-petition interest on the Secured Claim and thus does not ensure that distributions under

the plan are not less than the allowed amount of the Secured Claim. See 11 U.S.C. §§ 506(b), 1325(a)(5)(B)(ii), In re Bernbaum, 404 B.R. 39, 42 (Bankr. D. Mass. 2009) and In re Soppick, 516 B.R. 733, 753 (Bankr. E.D. Pa. 2014).

WHEREFORE, the City respectfully requests that this Court DENY confirmation of the Plan.

Respectfully submitted,

THE CITY OF PHILADELPHIA

Dated: September 13, 2017

By: /s/ Pamela Elchert Thurmond
PAMELA ELCHERT THURMOND
Deputy City Solicitor
PA Attorney I.D. 202504
Attorney for the City of Philadelphia
City of Philadelphia Law Department
Municipal Services Building
1401 JFK Boulevard, 5th Floor
Philadelphia, PA 19102-1595
215-686-0508 (phone)
Email: Pamela.Thurmond@phila.gov